that it is true state of affairs, may I know whether any exemption was given in the present appointment.

Khan Sahib Y. Muhammad Roshan Sahib Bahadur *(Commissioner of Police):* I have answered it already.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* May I know Sir, whether any exemption have been granted in the matter of chief ministerial officers of any other department, recently? Here it is said that the chief ministerial officer has been given exemption for the purpose of appointment. May I know whether there have been any other instances of this nature in any other departments during the last one year or so.

Rama Varmha Tampuran *(Secretary to Government):* That point is not clear whether he must be a law-graduate or not.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* The House can take it from me that there was such an order.

Rama Varmha Tampuran *(Secretary to Government):* The doubt is there, whether that order refers to only to initial recruitment or whether it refers to others also. Anyhow there is a point of doubt. And so far as that point has not been settled we cannot say that this has been irregular. That is why I said "I want notice".

Mr. C. R. Iyyunni *(Trichur-South):* Suppose the Hon'ble Secretary is convinced that the law is otherwise, will the Government be pleased to revert him to his former post?

Khan Sahib Y. Muhammad Roshan Sahib Bahadur *(Commissioner of Police):* The present appointment is in order.

Deputy President: The question time is over.

THE COCHIN CHRISTIAN SUCCESSION ACT (AMENDMENT) BILL

Mr. A. V. Moothedan *(Chalakkudi):* Regarding the motion standing in my name I wish to make a statement. The Hon'ble Members Mr. Iyyunni and Mr. A. L. Antony want to have further consultations. I therefore request that the bill may be taken up in the Vrischigam session. Therefore I don't move.

THE COCHIN CHRISTIAN CIVIL MARRIAGE ACT REPEAL BILL

Mr. C. V. Iyyu *(Kunnamkulam):* Sir, The reasons given by me in the speech which was not completed last time are sufficient argument that this Act does not deserve a place in the Statute Book of any State and that this Act must be repealed.

Mr. V. J. Mathai *(Planters):* On a point of information, Sir. Shall we know as to whether Act 20/1110 is not for the celebration of marriages between different communites.

Mr. M. Sivarama Menon *(Advocate-General):* Yes.

Mr. V. J. Mathai *(Planters):* Sir, I oppose this motion. If I remember rightly the occasion for the Cochin Christian Civil Marriage Act was the refusal by priests to solemnise certain marriages. I think it was the Narakkal Church affair. The parishners for some reason or other revolted against the authority of the priests and the priests refused to solemnise any marriage. While I was a lawyer a typical case came before me. A poor father came before me and said that I must file a suit for damages against the Bishop of Cochin because a priest refused to solemnise the marriage of his daughter aged 19 because he owed some money to a particular church in a different transaction altogether. It seems he conducted a kuri and the church had taken a ticket in the kuri and some money was due to the church. The church could not realise it. They thought that he had secreted his property in somebody's name. After making all the arrangements he took the girl to the church but the priest refused to solemnise the marriage. Therefore, it becomes practically a tyranny of the priesthood. If people want to escape from that tyranny they should have the freedom to do so. After all the law is made for man and not man made for law. If I remember rightly it was on account of the agitation of the Christians themselves that this Act was passed. My only doubt was whether Act 21/10 will enable Christians to solemnise marriages without the aid of church. I am supported by the authority of the Advocate-General. It was my view that it takes in cases like Christians marrying Nayars, Nayars marrying Christians, Muhammadans marrying Christians and so on. It may not apply to this particular case. Therefore there is real danger in repealing this Act.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, I oppose this motion. The other day when I listened to my friend Mr. Iyyu's speech when he was introducing this bill, I thought he has brought this Bill as a saviour of catholicism. But so far as I am concerned, I know almost all the catholic Bishops personally. No one of them has told me of the necessity of repealing this Bill. It is a dead law. There may be some stray cases. Let them take advantage of it. That is my preliminary observation.

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Then I want to say a few words on the merits. After the passing of the Civil Marriage Act of 1110 it is said this Bill has become redundant. It is not correct. There is some difference between the two Acts. As Mr. Mathai pointed out, the Civil Marriage Act of 1110 is intended for all people who have no faith in any religion, people who have no faith in God. But some Christians—they may be believers of Christ—on account of some special reasons, may want to get a marriage conducted under this Act. Even then I say it is an evil. To disobey the ecclesiatical authorities is an evil. But let us choose the lesser evil. To get married under the Christian Civil Marriage Act is an evil. But getting married under the Civil Marriage Act of 1110 is a greater evil. Why should my Hon'ble Friend for Kunnamkulam compel these Christians to lease the company of Christians and joined the company of atheists? I may tell the House that no devote Christian, Nayar or Brahmin will get married under the Civil Marriage Act or Christian Civil Marriage Act. Therefore both may be repealed and both may be retained. For these reasons I oppose this motion.

Mr. M. Sivarama Menon *(Advocate-General)* : Sir, Government oppose this Bill. The main ground urged for refusal of this Act is that there is practically duplication, that with the passing of the Cochin Civil Marriage Act of 1110 the Christian Civil Marriage Act has become redundant. Because under the later Act the Christians also come within the ambit of that legislation. That is the main argument upon which this repeal Bill is based. I wish to point out to this Hon'ble House that even this Christian Civil Marriage Act does not apply to the Christians in British India. When legislation was undertaken in this State in 1095 it was definitely urged upon this Government that this Bill is practically a personal law so far as the British Indian Christians are concerned and therefore we should not legislate for them. Moreover, in British India there is a Naturalisation Act under which by 5 years of domicile in British India he will be deemed to be a naturalised British subject.

Secondly what is the preamble itself. The preamble is "Whereas it is expedient to provide a form of marriage for persons of diverse castes and creed and to legalise certain marriages the validity of which is doubtful, it is hereby enacted as follows." Even though the preamble will not be made use of for purposes of interpreting an enactment still in doubtful cases it may be considered. On general principles when there is a set of legislation affecting a particular community even though there is a general law under which that community can be brought in that law will not be interfered with. Therefore, there is no harm in both these acts remaining in the Statute Book. Further according to the Chiristian Civil Marriage Act the Registrar appointed by the Government must necesserily be a Christian. But under the Civil Marriage Act of 1110 anybody can be appointed as a Marriage Registrar.

Further it will be found from the Christian Civil Marriage Act that one of the contracting parties must be a Christian. Under the other there is no such rule. Anybody can marry Under section 3 these are conditions to be satisfied before contracting a marriage;

> "Neither party must, at the time of marriage, have a husband or wife living;
> the man must have completed the age of 18 and the women of 16;
> each party must, if he or she has not completed the age of 21, have obtained the consent of his or her parent or guardian;"

These are the only conditions stipulated by the Civil Marriage Act of 1110 for which the Hon'ble Deputy President was responsible. So that the argument of the Government is that there is no practical duplication and there is real difference between the two and even though *prima facie* it may appear that there is duplication if we go deeper we can find out that there is no duplication. The Government oppose this Bill not only because it is not necessary but because it will be inconsistent with the provisions of the Civil Marriage Act.

Mr. C. V. Iyyu *(Kunnamkulam)* : The explanations given by the Hon'ble Member for Chalakkudi that I pose myself as a saviour of catholicism is not correct. I am a catholic myself and I believe in Christ. It was the Roman Catholics and the other catholics who are not Roman Catholics who raised a great agitation when this Act was passed. This Act as long as it is in the Statute book affects ultra Protestants, people who do not believe in clergy, churches, sacraments or special form of written prayers. They only believe in extempore prayers, they believe in the Bible. They are such Christians. Such people solemnise their marriages by the help of laymen and not, not even by laymen specially appointed particularly for that purpose. According to me, they are so narrow-minded as not to go before a Civil Marriage Registrar even if he is a Christian. They do not believe in such things. To such a people such an Act gives a good deal of trouble.

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Mr. C. R. Iyyunni *(Trichur-South)* : The Protestants who do not belong to any community can themselves marry without this law. There is no difficulty. This is only a permissive measure. You are confusing both the two. The mere fact that there is a Christian Civil Marriage Act does not prevent them from marrying according to their customs.

Mr. C. V. Iyyu *(Kunnamkulam)* : Should there not be a canon law? There is no canon law for them. As long as there is a legislation to this effect they must obey it.

Deputy President: Why?

Mr. C. R. Iyyunni *(Trichur-South)* : Will you kindly read that provision in the Christian Civil Marriage Act?

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli)* : May I know, Sir, whether these people can take recourse to Civil Marriage Act prevailing here so that they can make their marriages legal?

Mr. C. V. Iyyu *(Kunnamkulam)* : The Statement of the Hon'ble Law Member was that Civil Marriage Act of 1110 applies only to the marriage of people belonging to diverse communities. Then that Act may be amended like that.

Mr. M. Sivarama Menon *(Advocate-General)* : If the Protestant is considered to be a Christian in terms of the definition of "Christian" given in the Act he can come under this Act.

Mr. C. V. Iyyu *(Kunnamkulam)* : They are not willing to come under this Act.

Mr. P. Govinda Menon *(Mulakunnathukavu)* : Then they need not.

Mr. C. V. Iyyu *(Kunnamkulam)* : The Hon'ble Member for Chalakkudi is of opinion that a devout Christian will not go to a Marriage Registrar belonging to any other caste. What is the difference between a Hindu Marriage Registrar and a Christian Marriage Registrar. Suppose Mr. Sivarama Menon and Mr. C. J. Mathew are appointed Marriage Registrars.

Mr. A. V. Moothedan *(Chalakkudi)* : I will certainly go to Mr. Mathew.

Mr. C. V. Iyyu *(Kunnamkulam)* : I will be ashamed to go to Mr. Mathew. I will go to Mr. Sivarama Menon.

Deputy President: You are far away from the subject.

Mr. C. V. Iyyu *(Kunnamkulam)* : The Law Member himself said that it does not apply to British Indian States. Then it will be beneficial only to a very few Cochinites alone.

Deputy President: What is your position?

Mr. C. V. Iyyu *(Kunnamkulam)* : There is no necessity for this Act.

Deputy President: Is it your case that the Christian Civil Marriage Act is a duplication now?

Mr. C. V. Iyyu *(Kunnamkulam)* : It is unnecessary.

Deputy President: They have anwered that point.

Mr. A. V. Moothedan *(Chalakkudi)* : The Civil Marriage Act was passed by this House. If there was any duplication the House would have considered it.

Mr. M. Sivarama Menon *(Advocate-General)* : I may inform the Hon'ble House that these two pieces of legislation in their present form have been adopted in British India today. There, there is a Special Marriage Act of 1872 and the Christian Civil Marriage Act of 1872. Both these legislations are based upon them.

Mr. C. V. Iyyu *(Kunnamkulam)* : Sir, I beg leave of the House to withdraw the Bill.

Motion that the member be allowed to withdraw the Bill put and carried.

THE COCHIN CHRISTIAN SUCCESSION ACT (AMENDMENT) BILL

Mr. C. V. Iyyu *(Kunnamkulam)* : Sir, in view of Mr. Moothedan's statement that he wishes to have further discussions regarding his Bill with the Hon'ble Members for Trichur and Irinjalakkuda, I also wish to have further discussions on my Bill with the other Christian leaders. So I do not propose to move the Bill now.

THE COCHIN AGRICULTURISTS DEBTORS PROTECTION BILL

Mr. C. V. Iyyu *(Kunnamkulam)* : Sir, I do not propose to move the Cochin Agriculturists Debtors Protection Bill now.

THE COCHIN SPECIFIC RELIEF ACT (AMENDMENT) BILL

Mr. P. Govinda Menon *(Mulakunnathukavu)* : Sir, I move for leave to introduce the Cochin Specific Relief Act (Amendment) Bill.

Mr. A. V. Moothedan *(Chalakkudi)* : I second it.

Motion put and carried

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